

REMARKS

Claims 4, 5, 13, 14 and 23-43 are pending in this application. Claims 23-43 have been allowed by the Examiner.

The Examiner rejected claims 4, 5, 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Solem et al. US Patent Appl. Publ. No. 2001/0018611 in view of Pai et al. US Patent Appl. Publ. No. 2003/0078465 and Langberg et al. US Patent No. 6,402,781. Specifically, the Examiner asserts that (1) the Pai reference teaches the use of self-expanding anchors for use in its tensioning device; (2) self-expanding stents are “old and well-known in the art” (without any reference citation); and (3) the device described in the Langberg reference includes “a lock to lock a forming element to the proximal end of the device in order to maintain sufficient tension in the forming element to reconfigure the device to a remodeling orientation.” From those assertions, the Examiner leaps to the conclusion that the invention recited by claims 4, 5, 13 and 14 would have been obvious to one skilled in the art.

The Examiner’s conclusion, however, is not based on any teaching or suggestion in the references themselves that these elements can or should be combined in the manner recited in claims 4, 5, 13 and 14. For example, nothing in the Solem or the Pai references suggests that the Solem anchors should be made self-expanding or that the Solem device would even be operable if the anchors were self-expanding. The combination suggested by the Examiner comes solely from hindsight after reading those claims and therefore cannot serve as the basis of an obviousness rejection under § 103. The Examiner’s rejection of claims 4, 5, 13 and 14 under 35 U.S.C. § 103 is improper and should be withdrawn. Claims 4, 5, 13 and 14 are allowable over the prior art of record.

Application No. 10/011,867
Amendment dated June 16, 2004
Reply to Office Action of March 19, 2004

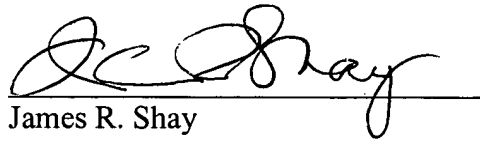
CONCLUSION

For the reasons set forth above, claims 4, 5, 13, 14 and 23-43 are allowable over the prior art of record. Applicants respectfully solicit the Examiner to expedite the prosecution of this patent application to issuance. Should the Examiner have any question, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

Date: 6/16/04

By:

A handwritten signature in black ink, appearing to read "J. R. Shay", written over a horizontal line.

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